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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न-भिन्न संख्या की जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in the Lok Sabha on the 31st August, 1978:—

BILL No. 138 of 1978

A Bill further to amend the Merchant Shipping Act, 1958.

Be it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Merchant Shipping (Amendment) Act, 1978.

Short title.

44 of 1958.

2. In the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after Part VI, the following Part shall be inserted, namely:—

Insertion of new Part VIA

'PART VIA

OBLIGATION OF CERTAIN CERTIFICATE HOLDERS TO SERVE GOVERNMENT OR IN INDIAN SHIPS

87A. In this Part, unless the context otherwise requires,—

Definitions.

(a) "appointed day" means the date on which the Merchant Shipping (Amendment) Act, 1978, comes into force;

(b) "certificate" means—

(i) a certificate of competency referred to in section 78;

or

(ii) a certificate of service referred to in section 80; or

(iii) a certificate of competency or service referred to in section 86,

which has been obtained by any person by availing of training facilities in any of the merchant navy training establishments in India or experience of sea service on board any Indian ship or Indian Naval ship;

(c) "Government" includes—

(i) a Board of Trustees constituted under the Major Port Trusts Act, 1963, for any port, 38 of 1963.

(ii) a corporation established by or under a Central, Provincial or State Act,

(iii) a Government company within the meaning of section 617 of the Companies Act, 1956, and 1 of 1956.

(iv) a Merchant Navy Training Institution financed wholly or mainly by Government;

(d) "suitable employment", in relation to the holder of any certificate, means employment in a capacity for which the holding of such certificate is an essential qualification.

Holders of certificates to serve the Government or in Indian ships for a certain period.

87B. (1) Every citizen of India who obtains, on or after the appointed day, a certificate shall be liable to serve the Government, or in any Indian ship, for such period not extending beyond four years from the date on which he obtains such certificate or for such shorter period as the Central Government may, by a general or special order published in the Official Gazette, specify.

(2) No citizen of India who has obtained, on or after the appointed day, a certificate shall accept any employment other than an employment under the Government or in any Indian ship, before the expiry of the period during which he is liable to serve the Government or in any Indian ship in accordance with the provisions of sub-section (1) and the orders made thereunder.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), a citizen of India who has obtained, on or after the appointed day, two or more certificates shall not be liable to serve under the Government or in any Indian ship for any period or periods exceeding, or, as the case may be, exceeding in the aggregate, seven years.

Exemption from section 87B.

87C. (1) When any person referred to in section 87B has failed to secure suitable employment within a reasonable period from the date on which he applied for the same, he may make an application to the Director-General for exempting him from the requirements of sub-sections (1) and (2) of that section and if the Director-General is satisfied that the grounds stated in the application justify the exemption sought for, he shall, by order, exempt such person from the requirements of those sub-sections.

(2) The Director-General may, either on his own motion or on an application made by any person referred to in section 87B, by

order in writing, exempt such person from the requirements of sub-sections (1) and (2) of that section, if the Director-General is satisfied—

(a) that it is necessary so to do for compliance with any request made by the Government of any foreign country to make available the services of Indian personnel for meeting shortage of qualified personnel in its ships or shore establishments, or for compliance with any request made by any agency of the United Nations Organisation for making available Indian personnel for providing consultancy services on its behalf in technical co-operation or technical assistance programme in any country; or

(b) that such person is likely to suffer undue hardship if he is not so exempted.

(3) An application for exemption under sub-section (1) or sub-section (2) shall set out clearly all the particulars on the basis of which such exemption is applied for.

(4) Every such application shall be disposed of by the Director-General as expeditiously as possible and where the Director-General refuses to grant the exemption applied for, he shall record his reasons therefor and communicate the same to the applicant.

(5) Where, within a period of forty-five days of the date of receipt of any such application, the Director-General does not refuse to grant the exemption applied for, or does not communicate the refusal to the applicant, the Director-General shall be deemed to have granted the exemption applied for.

(6) Where the Director-General refuses to grant the exemption applied for, the applicant may prefer an appeal against such refusal to the Central Government within thirty days of the receipt of the order of the Director-General refusing the exemption and the Central Government may make such orders as it deems fit:

Provided that the Central Government may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time:

Provided further that no order confirming the order of the Director-General shall be made under this sub-section without giving the appellant an opportunity to represent his case.

87D. Every citizen of India who obtains, on or after the appointed day, a certificate, shall furnish, in such form and at such intervals as may be prescribed, particulars of the certificate or certificates obtained by him and of his employment.'

Particulars of certificate, etc., to be furnished.

3. In section 377 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Any certificate within the meaning of clause (b) of section 87A may be cancelled or suspended for any specified period by the Central Government if the person to whom such

Amendment of section 377.

certificate has been granted has contravened the provisions of sub-section (1) or sub-section (2) of section 87B:

Provided that no order under this sub-section shall be passed by the Central Government unless the person concerned has been given an opportunity of making a representation against the order proposed.”;

(b) in sub-section (2), for the words, brackets and figure “sub-section (1) or”, wherever they occur, the words, brackets, figures and letter “sub-section (1) or sub-section (1A) or” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Government of India is responsible for the training of the Merchant Navy personnel and it incurs substantial expenditure on the training institutions for the officers. By the drift abroad of the trained personnel, not only the expenditure incurred on training becomes infructuous but Indian shipping industry is also handicapped to a great extent as it is unable to find adequate qualified personnel to man their ships.

2. With a view to increasing the availability of the trained Merchant Navy personnel for employment on Indian ships, shore-based establishments, etc., it is proposed to cast obligation on the holders of Certificate of Competency and other certificates under the Merchant Shipping Act, 1958, to serve for a certain minimum period on Indian ships, ports and other establishments.

3. The Bill seeks to achieve the above object.

NEW DELHI;

CHAND RAM.

The 23rd August, 1978.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The new section 87B proposed to be inserted in the Act by clause 2 of the Bill empowers the Central Government to make rules regarding the form in which and the intervals at which certificate holders will have to furnish particulars of the certificates obtained by them and of their employment.

2. The matters in respect of which rules may be made are of administrative detail and procedure and as such, delegation of legislative power is of a normal character.

BILL No. 139 OF 1978

A Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Supreme Court Judges (Conditions of Service) Amendment Act, 1978.

Short
title.

2. In section 2 of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter referred to as the principal Act), in clause (h), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

Amend-
ment of
section 2.

“(iii) any period of leave on full allowances for which a rate equal to the monthly rate of the salary is payable;”.

Amend-
ment of
section 9.

3. In section 9 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that where leave on full allowances is granted to a Judge on medical certificate, the rate equal to the monthly rate of his salary shall be payable to him for the first one hundred and twenty days of such leave.”.

Insertion
of new
section
23D.

4. After section 23C of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely:—

“23D. Notwithstanding anything contained in the Income-tax Act, 1961, the value of rent-free official residence provided to a Judge under sub-section (1) of section 23 shall not be included in the computation of his income chargeable under the head “Salaries” under section 15 of the Income-tax Act, 1961.”.

Exemp-
tion from
liability
to pay
income-
tax on
certain
per-
quisites
received
by a
Judge.

48 of 1961.

STATEMENT OF OBJECTS AND REASONS

Under the Supreme Court Judges (Conditions of Service) Act, 1958, when a Supreme Court Judge avails of leave on full allowances, he can draw full salary (equal to monthly rate of pay) for the first 45 days and leave allowance at the rate of Rs. 2,220 per month for the rest of such leave. It is felt that this provision is inadequate inasmuch as it does not permit a Judge to take medical leave on full monthly salary beyond 45 days at a time even though he is in a bad state of health. It is accordingly proposed that the Supreme Court Judges may be allowed full salary (equal to monthly rate of pay) for the first 120 days of leave on full allowances, if such leave is availed of on medical grounds.

A Supreme Court Judge is at present entitled without payment of rent to the use of an official residence. The value of rent-free accommodation provided to a Judge is being treated as a perquisite under the Income-tax Act and is taxed accordingly. It has been represented that the value of rent-free accommodation provided to Judges should be free of income-tax, as otherwise the benefits provided on this account would be illusory. It is accordingly proposed to exempt from income-tax the value of rent-free official residence provided to a Supreme Court Judge from the assessment year 1978-79 commencing on 1st April, 1978.

The Bill seeks to amend the Supreme Court Judges (Conditions of Service) Act, 1958, to achieve the above objectives.

NEW DELHI;

The 24th August, 1978.

SHANTI BHUSHAN.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 35/1/78-Jus(M), dated the 28th August, 1978 from Shri Shanti Bhushan, Minister of Law, Justice and Company Affairs to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Supreme Court Judges (Conditions of Service) Amendment Bill, 1978, recommends the introduction of the Bill in Lok Sabha under articles 117(1) and 274(1) and the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

Under clause 3 of the Bill, which seeks to amend section 9 of the Supreme Court Judges (Conditions of Service) Act, 1958, a Supreme Court Judge will be entitled to leave allowances at the monthly rate of his salary for the first 120 days if the leave is availed of on a medical certificate. The monthly rate of leave allowances payable to a Judge while on leave on full allowances for the first 45 days is Rs. 5000 in the case of the Chief Justice and Rs. 4000 in the case of a puisne Judge and at the rate of Rs. 2220 for the rest of such leave. Since allowances equal to monthly ~~rate~~ of salary will now be payable for an additional period of 75 days, the additional expenditure involved will be Rs. 2780 per month (Rs. 5000 minus Rs. 2220) or Rs. 6950 on each occasion in respect of the Chief Justice and Rs. 1780 per month (Rs. 4000 minus Rs. 2220) or Rs. 4450 on each occasion in respect of a puisne Judge.

2. The Bill will not involve any non-recurring expenditure.

BILL No. 140 OF 1978

A Bill further to amend the High Court Judges (Conditions of Service) Act, 1954.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1978.

Short
title.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in clause (h) of sub-section (1), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

Amend-
ment of
section 2.

“(ii) any period of leave on full allowances for which a rate equal to the monthly rate of the salary is payable;”.

Amend-
ment of
section 9.

3. In section 9 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

“Provided that where leave on full allowances is granted to a Judge on medical certificate, the rate equal to the monthly rate of his salary shall be payable to him for the first one hundred and twenty days of such leave.”.

Insertion
of new
section
22D.

4. After section 22C of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1978, namely:—

‘22D. Notwithstanding anything contained in the Income-tax Act, 1961,— 43 of 1961.

(i) the value of rent-free official residence provided to a Judge under sub-section (1) of section 22A; or

(ii) the allowance paid to him under sub-section (2) of that section,

shall not be included in the computation of his income chargeable under the head “Salaries” under section 15 of the Income-tax Act, 1961.’. 43 of 1961.

Exemp-
tion from
liability
to pay
income-
tax on
certain
perqui-
sites or
allowance
received
by a
Judge.

STATEMENT OF OBJECTS AND REASONS

Under the High Court Judges (Conditions of Service) Act, 1954, when a High Court Judge avails of leave on full allowances, he can draw full salary (equal to monthly rate of pay) for the first 45 days and leave allowance at the rate of Rs. 2,220 per month for the rest of such leave. It is felt that this provision is inadequate inasmuch as it does not permit a Judge to take medical leave on full monthly salary beyond 45 days at a time even though he is in a bad state of health. It is accordingly proposed that the High Court Judges may be allowed full salary (equal to monthly rate of pay) for the first 120 days of leave on full allowances, if such leave is availed of on medical grounds.

A High Court Judge is at present entitled without payment of rent to the use of an official residence and where he does not avail himself of the use of such residence, he may be paid every month an allowance of an amount equal to twelve and a half per cent. of his salary. The value of rent-free accommodation provided to a Judge is being treated as a perquisite under the Income-tax Act and is taxed accordingly. It has been represented that the value of rent-free accommodation provided to Judges should be free of income-tax, as otherwise the benefits provided on this account would be illusory. It is, therefore, proposed to exempt from income-tax the value of rent-free official residence provided to a High Court Judge or the allowance payable to him in lieu thereof, from the assessment year 1978-79 commencing on 1st April, 1978.

The Bill seeks to amend the High Court Judges (Conditions of Service) Act, 1954, to achieve the above objectives.

NEW DELHI;

SHANTI BHUSHAN.

The 24th August, 1978.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA

[Copy of letter No. 35/1/78-Jus(M), dated the 28th August, 1978 from Shri Shanti Bhushan, Minister of Law, Justice and Company Affairs to the Secretary, Lok Sabha].

The President, having been informed of the subject matter of the High Court Judges (Conditions of Service) Amendment Bill, 1978, recommends the introduction of the Bill in Lok Sabha under articles 117(1) and 274(1) and the consideration of the Bill in Lok Sabha under article 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

Under clause 3 of the Bill, which seeks to amend section 9 of the High Court Judges (Conditions of Service) Act, 1954, a High Court Judge will be entitled to leave allowances at the monthly rate of his salary for the first 120 days if the leave is availed of on a medical certificate. The monthly rate of leave allowances payable to a Judge while on leave on full allowances for the first 45 days is Rs. 5000 in the case of the Chief Justice and Rs. 3500 in the case of a puisne Judge and at the rate of Rs. 2220 for the rest of such leave. Since allowances equal to monthly rate of salary will now be payable for an additional period of 75 days, the additional expenditure involved will be Rs. 1780 per month (Rs. 4000 minus Rs. 2220) or Rs. 4450 on each occasion in respect of a Chief Justice and Rs. 1280 per month (Rs. 3500 minus Rs. 2220) or Rs. 3200 on each occasion in respect of a puisne Judge.

2. This expenditure in respect of Judges of High Courts except the Delhi High Court will be a charge on the Consolidated Fund of the States. As regards Delhi High Court, the additional expenditure will be a charge on the Consolidated Fund of India.

3. The Bill will not involve any non-recurring expenditure.

BILL No. 142 OF 1978

A Bill to provide for the acquisition of shares of the Bolani Ores Limited in public interest in order to serve better the needs of the nation and to facilitate the promotion and development in the interests of the general public, of national steel industry and for matters connected therewith or incidental thereto.

WHEREAS Bolani Ores Limited was incorporated as a private limited company in June, 1957 for supplying ores mainly to the Durgapur Steel Plant;

WHEREAS 50.5 per cent. shares in the share capital of the said Bolani Ores Limited are held by the Steel Authority of India Limited, a wholly owned Government company and the remaining 49.5 per cent. shares are held by the Orissa Mineral Development Company Limited;

WHEREAS cumulative losses suffered by the said Bolani Ores Limited at the end of 1977-78 were to the extent of over Rs. 270 lakhs and the said Bolani Ores Limited is in need of urgent funds to carry on the operations of its undertakings;

AND WHEREAS the Orissa Mineral Development Company is not willing to contribute any further amount towards the share capital of the Bolani Ores Limited;

AND WHEREAS the Bolani Ores Limited is the main source of supply of iron ores to the Durgapur Steel Plant and without further substantial investments by way of capital outlay and otherwise the supply of iron ores to the said Plant cannot be maintained;

AND WHEREAS it is expedient in the public interest that the shares of the said Bolani Ores Limited should be acquired;

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title
and
com-
mence-
ment.

1. (1) This Act may be called the Bolani Ores Limited (Acquisition of Shares) and Miscellaneous Provisions Act, 1978.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date on which this Act comes into force;

(b) “Bolani Ores Limited” means the Bolani Ores Company Limited, a company formed and registered under the Companies Act and having its registered office at Chartered Bank Buildings in Calcutta in the State of West Bengal;

(c) “Companies Act” means the Companies Act, 1956;

(d) “dissolved company” means the Bolani Ores Limited dissolved by virtue of section 6;

(e) “the Company” means the Orissa Mineral Development Company Limited, a company formed and registered under the Companies Act and having its registered office at Chartered Bank Buildings, Calcutta in the State of West Bengal;

(f) “Steel Authority of India” means the Steel Authority of India Limited, a company formed and registered under the Companies Act and having its registered office at New Delhi.

(2) Save as provided in section 14, the words and expressions used herein and not defined but defined in the Companies Act have the meanings respectively assigned to them in that Act.

1 of 1956

CHAPTER II

ACQUISITION AND TRANSFER OF SHARES OF BOLANI ORES LIMITED

Vesting
in the
Central
Govern-
ment of
the shares
held by
the Com-
pany.

3. (1) On the appointed day, all the shares held by the Company in the share capital of the Bolani Ores Limited shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

(2) All the shares which have vested in the Central Government under sub-section (1) shall, by force of such vesting, be freed and discharged of all trusts, liabilities, obligations, mortgages, charges, liens and other encumbrances affecting them, and any attachment or injunction or any decree or order of any court, tribunal or other authority restricting the use of such shares in any manner shall be deemed to have been withdrawn.

4. (1) For the transfer to, and vesting in, the Central Government under section 3 of the shares held by the Company in the Bolani Ores Limited, the Central Government shall, within thirty days from the appointed day, pay to the Company in cash an amount of forty-nine thousand five hundred rupees.

Payment of amount to the Company.

(2) Where the Central Government fails to pay to the Company the amount specified in sub-section (1) within the period specified in that sub-section, the Central Government shall pay on the said amount simple interest at the rate of six per cent, per annum from the appointed day till the date of payment.

5. (1) All the shares held by the Company in the Bolani Ores Limited which have vested in the Central Government by virtue of section 3 shall, immediately after they have so vested, stand transferred to, and shall vest in, the Steel Authority of India.

Allocation of shares to the Steel Authority of India.

(2) The amount paid by the Central Government for the shares which stand transferred to, and vested in, the Steel Authority of India under sub-section (1) shall be deemed to be the contribution by the Central Government to the equity capital of the Steel Authority of India and the Steel Authority of India shall issue (if necessary, after amending its memorandum and articles of association) to the Central Government forty-nine fully paid-up shares of the face value of one thousand rupees each and pay to that Government five hundred rupees in cash.

CHAPTER III

VESTING OF UNDERTAKINGS IN THE STEEL AUTHORITY OF INDIA AND DISSOLUTION OF BOLANI ORES LIMITED

6. On the appointed day—

(a) all the undertakings of the Bolani Ores Limited, the shares of which have vested in the Steel Authority of India by virtue of section 5, shall stand transferred to, and shall vest in, the Steel Authority of India;

(b) the Bolani Ores Limited shall stand dissolved.

Vesting of undertakings in the Steel Authority of India and dissolution of Bolani Ores Limited.

7. For the purposes of this Act, the undertakings of the dissolved company shall be deemed to include all assets, rights, lease-holds (including mining leases), industrial or other licences, powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, equipment, cash or bank balances, cash in hand, reserve funds, investments and book debts and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the dissolved company and all books of account, registers, maps, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind of the dissolved company.

"Undertaking"—meaning of.

CHAPTER IV

PROVISIONS RELATING TO OFFICERS AND EMPLOYEES

Provi-
sions re-
lating to
officers
and
other
employees
of dis-
solved
company.

8. (1) Every officer (not being a director) or other employee holding office immediately before the appointed day in the dissolved company in relation to any undertaking of such company, shall, as from the appointed day, continue to hold office as such in respect of the undertaking vested in the Steel Authority of India by virtue of section 6, by the same tenure and upon the same terms and conditions of service and with the same rights and privileges as to retirement benefits as would have been admissible to him if the company in which he was holding office had not been dissolved and shall continue to do so unless and until such tenure and terms and conditions are duly altered by the Steel Authority of India.

(2) Notwithstanding anything contained in sub-section (1), rules relating to the conditions of service and Standing Orders applicable to the officers or other employees referred to in sub-section (1), as immediately before the appointed day, shall continue to apply unless and until they are duly altered by the Steel Authority of India.

Pro-
visions
relating
to direc-
tors.

9. Every person holding office as a director of the dissolved company immediately before the appointed day shall, on that day, cease to hold office as such director.

Provision
relating
to audi-
tors.

10. Every person appointed under section 619 of the Companies Act as an auditor of the dissolved company holding office immediately before the appointed day, may continue to hold office as such auditor in relation to the undertakings of the dissolved company which stand vested in the Steel Authority of India by virtue of section 6, for the duration for which he was so appointed, on the same terms and conditions as were applicable to him immediately before the appointed day.

Direc-
tors, etc.,
not
entitled
to com-
pensation.

11. (1) Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act or other person entitled to manage the whole or a substantial part of the business and affairs of the undertakings of the dissolved company under a special agreement or otherwise shall be entitled to any compensation against the dissolved company or the Central Government or the Steel Authority of India for the loss of office or for the premature termination of any contract of management entered into by him with the dissolved company whether such loss or termination was due to the provisions of this Act.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the provisions of sub-section (1) of section 8 shall not entitle any officer or other employee referred to in that sub-section to any compensation under that Act or under any other law for the time being in force and no claim for such compensation shall be entertained by any court, tribunal or other authority.

12. Where a provident fund has been established by the dissolved company for the benefit of the employees and the same stands vested in a trust, the monies and other assets standing to the credit of such provident fund shall continue to be held in trust with the same objects as were applicable before the appointed day and the trustees of such trusts functioning immediately before the appointed day shall, subject to the provisions of the trust deeds and the rules relating to such trusts, continue to function as trustees in respect of such provident fund maintained in relation to the undertakings of the dissolved company which stand vested in the Steel Authority of India by virtue of section 6, as if this Act had not been passed:

Provi-
dent
fund.

Provided that the right to nominate trustees and other rights relating to the trust vested in the dissolved company shall vest in the Steel Authority of India.

13. Where any gratuity, welfare fund or other fund has been established by the dissolved company for the benefit of its employees and is in existence immediately before the appointed day, all monies and other assets standing to the credit of or relatable to such gratuity, welfare fund or other fund shall vest in the Steel Authority of India.

Gratuity,
welfare
fund
and other
funds.

CHAPTER V

FINANCIAL PROVISIONS

14. (1) The Steel Authority of India shall be liable to pay any sum under the provisions of the Income-tax Act or the Companies (Profits) Surtax Act which the dissolved company would have been liable to pay if the dissolution had not taken place, in the like manner and to the same extent as the dissolved company.

Pro-
visions
with
respect
to
income-
tax and
surtax.

(2) For the purpose of making an assessment of the income or, as the case may be, the chargeable profits of the dissolved company and for the purpose of levying any sum in accordance with the provisions of subsection (1),—

(a) any proceeding taken against the dissolved company before the appointed day shall be deemed to have been taken against the Steel Authority of India and may be continued against the Steel Authority of India from the stage at which it stood immediately before the appointed day;

(b) any proceeding which could have been taken against the dissolved company, if the dissolution had not taken place, may be taken against the Steel Authority of India; and

(c) all the provisions of the Income-tax Act or, as the case may be, the Companies (Profits) Surtax Act shall apply accordingly.

(3) The assessment of the income or, as the case may be, the chargeable profits of the previous year of the dissolved company up to the appointed day shall be made as if such dissolution had not taken place and all the provisions of the Income-tax Act or as the case may be, the Companies (Profits) Surtax Act shall, so far as may be, apply accordingly.

(4) The transfer and vesting of the undertakings of the dissolved company in the Steel Authority of India under the provisions of this Act shall be deemed to be an amalgamation in relation to the dissolved company and the Steel Authority of India and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if references in the said Act to the amalgamating company and the amalgamated company were references to the dissolved company and the Steel Authority of India respectively.

(5) The accumulated loss and the unabsorbed depreciation, if any, of the dissolved company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the Steel Authority of India for the previous year in which the amalgamation referred to in sub-section (4) has taken place and the provisions of the Income-tax Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

(6) The provisions of sub-sections (1) to (5) shall have effect notwithstanding anything to the contrary contained in the Income-tax Act or the Companies (Profits) Surtax Act.

Explanation.—For the purposes of this section,—

(a) "Income-tax Act" means the Income-tax Act, 1961;

43 of 1961.

(b) "Companies (Profits) Surtax Act" means the Companies (Profits) Surtax Act, 1964;

7 of 1964.

(c) words and expressions used in this section and not defined in this Act but defined in the Income-tax Act or the Companies (Profits) Surtax Act shall have the meanings respectively assigned to them in the said Acts.

Taxes, fees and other charges not payable.

15. For the removal of doubts, it is hereby declared that no taxes, duties, fees or other charges of whatever nature (including registration charges), shall be payable in respect of any transfer of shares or transfer of undertakings or transfer of any immovable property, under the provisions of this Act.

CHAPTER VI

MISCELLANEOUS

Duty to deliver possession of properties, etc.

16. (1) Where any property appertaining to any of the undertakings of the dissolved company has been transferred to, and vested in, the Steel Authority of India,—

(a) every person in whose possession, custody or control any such property may be, shall, on demand by the Steel Authority of India, forthwith deliver the property to the Steel Authority of India or to such person as the Steel Authority of India may authorise in this behalf;

(b) any person who, immediately before such vesting, has, in his possession, custody or control, any books, documents or other papers relating to any of the undertakings of the dissolved company shall be liable to account for the said books, documents and papers to the

Steel Authority of India and shall deliver them to the Steel Authority of India or to such person as the Steel Authority of India may authorise in this behalf.

(2) Without prejudice to the other provisions contained in this section, it shall be lawful for the Steel Authority of India to take all necessary steps for taking possession of all properties, which have been transferred to, and vested in, it under this Act.

17. Any person who.—

Penalties.

(a) having in his possession, custody or control any property forming part of the dissolved company wrongfully withholds such property from the Steel Authority of India; or

(b) wrongfully obtains possession of, or retains, any property forming part of any of the undertakings of the dissolved company; or

(c) wilfully withholds or fails to furnish to the Steel Authority of India or any person authorised by it any books, documents or other papers relating to any of the undertakings of the dissolved company which may be in his possession, custody or control; or

(d) fails to deliver to the Steel Authority of India or to a person authorised by it, any assets, books of account, registers or other documents in his possession, custody or control relating to any of the undertakings of the dissolved company; or

(e) wrongfully removes or destroys any property forming part of any of the undertakings of the dissolved company; or

(f) wrongfully uses any property forming part of any of the undertakings of the dissolved company,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

18. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by
companies

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

Protection
of action
taken in
good faith.

19. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Steel Authority of India or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Cognizance
of offen-
ces.

20. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence under this Act except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government.

2 of 1974.

Saving
of con-
tracts, etc.

21. All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party subsisting or having effect immediately before the appointed day, shall, as from that day, be of full force and effect against, or, as the case may be, in favour of, the Steel Authority of India and may be enforced as fully and effectually as if, instead of the dissolved company, the Steel Authority of India had been a party thereto.

Saving of
legal
proceed-
ings.

22. If, on the appointed day, there is pending any suit, arbitration, appeal or other legal proceeding of whatever nature by or against the dissolved company, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertakings of the dissolved company or of anything contained in this Act, but the suit, arbitration, appeal or other proceeding may be continued, prosecuted and enforced by or against the Steel Authority of India in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

Board of
Directors
of Steel
Authority
of India
to adopt
accounts of
dissolved
company.

23. (1) The accounts of the dissolved company shall stand closed on the appointed day and the balance-sheet and the profit and loss accounts for the current financial year up to the appointed day shall be prepared and audited in accordance with the provisions of the Companies Act.

(2) Notwithstanding the provisions in the Companies Act, the Board of Directors of the Steel Authority of India shall be deemed to be the Board of Directors of the dissolved company and the shareholders of the Steel Authority of India shall be deemed to be the shareholders of the dissolved company for the purpose of adoption of the accounts, directors' report and completion of other formalities in accordance with the provisions of the Companies Act in this regard.

Transfer
of docu-
ments
relating
to the
dissolved
Com-
pany.

24. (1) The Registrar of Companies with whom the dissolved company is registered shall, as soon as may be after the appointed day, transfer all documents relating to the dissolved company to the Registrar of Companies, New Delhi.

(2) The Registrar of Companies, New Delhi, on receipt of the documents relating to the dissolved company, shall add those documents to the file maintained by him in relation to the Steel Authority of India, and shall consolidate the files relating to the dissolved company and the Steel Authority of India and the documents filed by the dissolved company shall, for the purposes of the Companies Act, be deemed to have been filed by the Steel Authority of India in relation to the business of the

undertakings of the dissolved company which stands transferred to and vested in the Steel Authority of India by virtue of section 6.

25. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary, for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the appointed day.

26. The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything contained in the Companies Act or in any other law for the time being in force or in any contract, express or implied, or in any rules or regulations having effect by virtue of any law other than this Act.

Act to override the provisions of other laws.

27. (1) For the purpose of giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, make amendments in the memorandum or articles of association, or both, of the Steel Authority of India.

Power to amend memorandum and articles of association.

(2) Any amendments in the memorandum or articles of association of the Steel Authority of India made in pursuance of sub-section (1) shall have effect notwithstanding anything contained in the Companies Act.

28. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Bolani Ores Limited was incorporated as a private limited company in June, 1957 for supplying iron ore mainly to the Durgapur Steel Plant. The capital of the company was contributed by the Government of India to the extent of 50.5 per cent., the remaining 49.5 per cent. being contributed by the Orissa Mineral Development Company Limited (OMDC), a company of the Bird Group. In February, 1973, the shares of the Central Government in the company were transferred to the Steel Authority of India Limited (SAIL).

2. The present financial position of the company is far from satisfactory. The accumulated losses suffered by the company till the end of 1977-78 is over Rs. 270 lakhs against the paid-up capital of Rs. 100 lakhs. The company is in immediate need of funds to the extent of about Rs. 250 lakhs to complete the capital schemes in hand and for providing balancing facilities and to replace some of the worn out earth moving machinery, failing which the regular supply of iron ore of adequate quality to the Durgapur Steel Plant cannot be ensured. Bolani Ores Limited is the main source of supply of iron ore to the Durgapur Steel Plant which has no other alternative economic source of bulk supply and closure or inefficient working of the mine by the Bolani Ores Limited, will seriously affect the interests of the steel plant. The Orissa Mineral Development Company is not interested in making any further investment in the Bolani Ores Limited. In order to ensure the regular supply of adequate quality of iron ore to the Durgapur Steel Plant, it is necessary that substantial investments are made in the Bolani Ores Limited by the Central Government. It is therefore necessary in the public interest to take over the company. The Bill proposes to acquire the shares held by the OMDC in the Bolani Ores Limited. To facilitate the efficient management of the Bolani Ores Limited, it is proposed to transfer the undertaking of that company to the Steel Authority of India Limited which is the apex body for all steel plants.

3. The present state of affairs of the Bolani Ores Limited has revealed that the shares of the company do not have any value under the conventional methods of valuation namely, net worth and profit earning capacity. It is however proposed to make a payment of an amount of Rs. 49,500 at the rate of rupee one for each share of the face value of Rs. 100 for the acquisition of the shares.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

BIJU PATNAIK.

The 17th August, 1978.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 10-6/78-DUR, dated the 18th August, 1978 from Shri Biju Patnaik, Minister of Steel and Mines to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Bolani Ores Limited (Acquisition of Shares) and Miscellaneous Provisions Bill, 1978 to provide for the acquisition of certain shares of Bolani Ores Limited and for matters connected therewith or incidental thereto has recommended under clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, the introduction and consideration by Lok Sabha of the said Bill.

FINANCIAL MEMORANDUM

The Bill seeks to provide for the acquisition by the Central Government of the shares of Bolani Ores Limited, presently held by the Orissa Mineral Development Company Limited (OMDC), and transfer of the company to the Steel Authority of India Limited (SAIL).

2. Clause 4 of the Bill provides for payment by the Central Government to OMDC, in cash, of an amount of rupees forty-nine thousand and five hundred, for the transfer to, and vesting in it, of the shares of the company held by OMDC. The said amount will carry simple interest at the rate of six per cent. per annum for the period commencing from the appointed day, the date on which the Act would take effect, and ending on the date on which payment of such amount is made by the Central Government to OMDC. Interest at the said rate is likely to be of the order of rupees one thousand.

3. Thus, the total estimated non-recurring expenditure involved if the Bill is enacted, will be of the order of rupees fifty thousand and five hundred.

4. The purpose of acquisition by the Central Government of the shares of Bolani Ores Limited, presently held by OMDC is to ensure proper functioning through SAIL, so as to enable it to maintain a high level of production and maintain regular supply of iron ore to the Durgapur Steel Plant. As presently foreseen, estimated additional investment for this purpose by Government will be of the order of about Rs. 250 lakhs. Such expenditure will, however, be incurred after due appropriation by Parliament by law.

5. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 28 of the Bill seeks to confer on the Central Government the general rule making power for implementation of the provisions of the Bill when enacted. The power of making rules will be confined to matters of detail and procedure.

2. The delegation of legislative power is, therefore, of normal character.

AVTAR SINGH RIKHY,
Secretary.